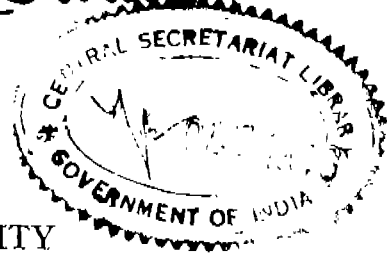


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha
on the 20th March, 1970:—

Bill No. I of 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic
of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.
2. In the Eighth Schedule to the Constitution—
 - (a) entries 8 to 15 shall be re-numbered as entries 9 to 16, respectively;
 - (b) before entry 9 as so re-numbered, the entry “8. Manipuri” shall be inserted.

Amendment
of the
Eighth
Schedule
to the
Constitution

STATEMENT OF OBJECTS AND REASONS

The Manipuri language has a rich literature. Dr. Suniti Kumar Chatterjee, President of the Sahitya Akademy and a National Professor speaks highly of the richness of the Manipuri literature. Besides the rich and original works including ancient manuscripts on various subjects, there are translations of high order of Mahabharata, Ramayana, Shrimat Bhagavata Gita, Manusanghita, Sakuntalam, Uttar Ramcharitam from the original Sanskrit texts, in this language. Similarly Manipuri translations of important works of Michael Madhusudan, Bankim Chandra, Rabindranath Tagore and Sarat Chatterjee also exist. Though the Manipuri language with a sprinkling of Sanskrit words here and there, has had an independent growth, it originally belongs to the sub-family of Tibeto-Burman languages. It is the regional language of the Union Territory of Manipur and is spoken by about fifteen lakhs of People.

For all these reasons the language deserves to be placed in the Eighth Schedule as one of the national languages of India.

The proposed Bill seeks for the inclusion of 'Manipuri' in the Eighth Schedule to the Constitution.

S. KRISHNAMOHON SINGH

BILL NO. XXVIII OF 1969

A Bill further to amend the Central Reserve Police Force Act, 1949.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Reserve Police Force (Amendment) Act, 1970.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

66 of 1949

2. In section 8 of the Central Reserve Police Force Act, 1949 after sub-section (1), the following proviso shall be added, namely:—

Amend-
ment of
Section 8.

“Provided that the Force shall not be deployed in any part of a State without the consent of the Government of that State.”

STATEMENT OF OBJECTS AND REASONS

Maintenance of Law and order is primarily the responsibility of the State Governments. When the Central Reserve Police Force is deployed in a State by the Central Authorities without the consent of the Government of that State in order to protect vital Central installations there, it will lead to serious conflicts of jurisdiction between the Centre and the State embittering Centre-State relationship. This unhappy situation can be avoided if the Central Reserve Police Force is deployed in a State only with the consent of the Government of that State.

Hence this amendment.

CHITTA BASU.

BILL NO. III OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.
2. In sub-clause (b) of clause 2 of article 85 of the Constitution, after the words “the House of the People” the words “on the advice of the Prime Minister” shall be added. Amend-
ment of
Article 85.

STATEMENT OF OBJECTS AND REASONS

Article 85(2) (b) of the Constitution confers on the President power of dissolution of the "House of the People". It is not quite clear whether the President is to exercise this power in his own discretion or act according to the advice of the Prime Minister in the matter. In a Parliamentary democracy the Prime Minister should have the power of obtaining the verdict of the people when he considers that an adverse vote of the House of the people does not reflect the views of the people themselves.

With a view to making the Constitutional powers of the President clear and for strengthening the Parliamentary system in the country the proposed amendment is suggested.

PRANAB KUMAR MUKHERJEE.

Bill No. XIV of 1969.*A Bill to amend the Constitution of India.*

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1970.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the First Schedule to the Constitution,—

(a) under the heading “I. THE STATES”, after entry 17, the following entry shall be inserted, namely:—

Amend-
ment of
the first
Schedule
to the
Consti-
tution.

“18. Himachal Pradesh.—The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners’ Provinces under the names of Himachal Pradesh and Bilaspur and the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.”

(b) under the heading “II. THE UNION TERRITORIES”, entry 2 relating to Himachal Pradesh shall be omitted.

3. In article 239A of the Constitution, in clause (1), the words “Himachal Pradesh” shall be omitted.

Amend-
ment of
article
239A.

STATEMENT OF OBJECTS AND REASONS

For a long time the people of Himachal Pradesh have been demanding for full Statehood as under the Government of Union Territories Act, 1963, they have little scope for playing effective roles in their economic, political, social and cultural spheres. Such a demand was also placed before a Study Team of the Administrative Reforms Commission by the Members of Parliament from Himachal Pradesh and a Resolution to this effect was moved in the Rajya Sabha on the 26th July, 1968. On the 9th August, 1968, the Minister of State in the Ministry of Home Affairs expressed his full sympathy with the demand contained in this Resolution.

Himachal Pradesh now claims to be the biggest Union Territory after its acquiring territories from the erstwhile State of Punjab under the Punjab Reorganisation Act, 1966, and economically it has become sufficiently viable. Justice should, therefore, be done to the people of Himachal Pradesh by granting them full Statehood.

Hence this Bill.

C. L. VARMA.

Bill No. II of 1970*A Bill to amend the Trade Unions Act, 1926.*

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Trade Unions (Amendment) Act, 1970.

Short
title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Trade Unions Act, 1926 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 2
of Act 16
of 1926.

(i) before clause (a), the following clause shall be inserted, namely:—

‘(a1) “employer” means,—

(i) in relation to an industry carried on by or under the authority of any Department of the Central Government or of the State Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the Department,

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority,

(iii) in relation to any other industry, its owner, manager or general manager, managing director, or where there is no authority of these categories, the person who has ultimate control over the affairs of the industry, and where the said affairs are entrusted to a managing agent, such managing agent,

(iv) in relation to an association or organisation of employers, its executive or any other body, by whatever name it is called to which the management of the affairs of the association or organisation is entrusted;'

(ii) after clause (a), the following clauses shall be inserted, namely:—

‘(aa) “industry” means—

(i) any business, trade, undertaking, manufacture or calling of employers; and

(ii) any calling, service, employment, handicraft, industrial occupation or avocation of workmen, and includes any university, college, school and other educational institution or institution for carrying on research work, auditor's or solicitor's firm, hospital, and any other establishment as the appropriate Government may, by notification in the Official Gazette, declare as industry;

(aaa) “Local area” means any area comprising the whole or part of a State or Union territory as the appropriate Government may, after making such enquiry as may be prescribed, specify by notification in the Official Gazette, in relation to any class of industry;

(aaaa) “lock-out” means a lock-out as defined in clause (l) of section 2 of the Industrial Disputes Act, 1947;'

Act 14 of
1947.

(iii) after clause (c), the following clause shall be inserted, namely:—

‘(cc) “recognised Trade Union” means a Trade Union recognised under this Act;'

(iv) after clause (f), the following clause shall be inserted, namely:—

‘(ff) “strike” means a strike as defined in clause (q) of section 2 of the Industrial Disputes Act, 1947;'

(v) in clause (g), the word “and” at the end shall be omitted, and to the said clause as so amended, the following proviso shall be added, namely:—

‘Provided that for the purpose of Chapter IIIA of this Act the word “workman” shall have the same meaning as in clause (s) of section 2 of the Industrial Disputes Act, 1947; and’.

3. In section 10 of the principal Act, in clause (b), after the words "this Act", the words and figure "or any rule referred to in section 6," shall be inserted.

Amend-
ment of
Section 10.

4. For section 11 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new Sec-
tion for
Section 11.

"11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union under section 7 or by the withdrawal or cancellation of a certificate of registration under section 10 and any Trade Union or any association or organisation of employers or any employer of an industrial establishment aggrieved by any decision of the Registrar under Chapter IIIA of this Act in connection with the grant, cancellation or withdrawal of any certificate directing recognition of a Trade Union may, within such period as may be prescribed, appeal—

Appeal.

(a) where the head office of the Trade Union or the association or organisation of employers or any employer of an individual establishment or the industrial establishment is situated within the limits of a Presidency town, to the High Court, or

(b) where such head office is situated in any other area, to such Court, not being inferior to the Court of an Additional District Judge, as the appropriate Government may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order—

(a) directing the Registrar to register the Trade Union and to issue a certificate for registration under the provisions of section 9, or

(b) setting aside the order for withdrawal or cancellation of the certificate of registration, or

(c) directing cancellation or withdrawal of the certificate for recognition of a Trade Union if such recognition is not maintainable under the provisions of this Act, or

(d) directing the Registrar to grant certificate for recognition to a Trade Union,

and the Registrar shall comply with the order of the appellate Court.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code."

Insertion
of new
Chapters
IIIA and
IIIB.

5. After Chapter III of the principal Act, the following Chapters shall be inserted, namely:—

“CHAPTER IIIA

RECOGNITION OF TRADE UNIONS

Applica-
tion for
recogni-
tion.

28A. (1) Subject to the provisions of sub-section (2), any registered Trade Union may apply in the prescribed manner together with such fee, not exceeding ten rupees, as may be prescribed, to the Registrar for recognition as the representative Trade Union for an industrial establishment or a class of industry, in a local area, as the case may be:

Provided that no such application shall be entertained in respect of an industrial establishment or a class of industry, in a local area, as the case may be, if there is already a Trade Union recognised under this Act in respect of such industrial establishment or class of industry, as the case may be, during the period of two years immediately following the date of recognition of that Trade Union by the employer concerned:

Provided further that such application may be filed with the Registrar within the period of two years referred to in the first proviso if the recognition of the Trade Union concerned is withdrawn or cancelled under this Act during that period:

Provided also that the existence of a recognised Trade Union in respect of a class of industry in a local area shall not be a bar in submitting an application for recognition in a single industrial establishment belonging to that class of industry in a local area.

(2) No Trade Union shall be eligible to apply for recognition under sub-section (1), unless—

(i) it has been functioning as a registered Trade Union in an industrial establishment or the class of industry in the local area, as the case may be, for a period of at least six months immediately preceding the date of filing of such application;

(ii) the membership thereof is open to all workmen employed in the industrial establishment or the class of industry in the local area, as the case may be; and

(iii) the rules of the Trade Union provide that—

(a) the appointment of the office-bearers shall be made every year within the date specified in this behalf; and

(b) the meeting of its executive shall be held at least once every three months.

Certificate
for recog-
nition of
Trade
Unions.

28B. (1) On receipt of an application under section 28A, the Registrar shall hold such enquiry as may be prescribed for determining whether the applicant Trade Union fulfils the conditions laid down in sub-section (2) of section 28A.

(2) If, on completion of the enquiry under sub-section (1), the Registrar is satisfied that the applicant Trade Union—

(i) does not fulfil all or any of the conditions laid down in sub-section (2) of section 28A, or is not entitled to apply in view of the first proviso to sub-section (1) of section 28A, he shall reject the application and intimate the reasons for such rejection to the Trade Union;

(ii) fulfils all the conditions laid down in sub-section (2) of section 28A, he shall proceed to take action as hereinafter provided.

(3) If there is only one applicant Trade Union in respect of an industrial establishment or a class of industry in a local area, as the case may be, fulfilling the conditions laid down in sub-section (2) of section 28A, the Registrar shall, within a period of fifteen days, enter the name of that Trade Union in a prescribed register to be maintained by him for this purpose and, as early as practicable, grant a certificate in the prescribed manner to the applicant Trade Union directing recognition of that Trade Union by the employer concerned.

(4) If there are more than one applicant Trade Unions in respect of an industrial establishment or a class of industry in a local area, as the case may be, fulfilling the conditions laid down in sub-section (2) of section 28A, the Registrar shall arrange to hold an election by secret ballot in the prescribed manner, in order to ascertain which of the applicant Trade Unions has the following of the largest number of eligible workmen employed in the industrial establishment or class of industry in a local area, as the case may be, and after recording the name of the Trade Union which secures the largest number of votes, in the prescribed register to be maintained by him for the purpose, grant as early as practicable, a certificate in the prescribed manner to that Trade Union directing recognition of that Trade Union by the employer concerned.

28C. All workmen, who are above the age of eighteen years, and are in service for a period of 120 days in a period of twelve months immediately before the date of announcement of an election to be held for the purpose of section 28B, in relation to such industrial establishment or class of industry, as the case may be, shall be eligible for voting. Eligibility for voting.

28D. (1) On receipt of the Registrar's certificate directing the recognition of a Trade Union under section 28B, the employer or employers, as the case may be, shall, within a period of thirty days, from the date of receipt of such certificate, grant in the prescribed manner recognition to the Trade Union as the representative union in relation to the industrial establishment or class of industry in a local area, as the case may be, to which the certificate relates. Recognition of Trade Union.

(2) A Trade Union recognised under sub-section (1) shall also be recognised as the representative union by every federation, association or organisation of employers pertaining to the same indus-

trial establishment or class of industry in the local area, as the case may be.

(3) Any recognition granted under this section shall be operative for a period of two years from the date on which such recognition is granted by the employer unless the recognition is cancelled or withdrawn at an earlier date under section 28G:

Provided that where the recognition of a Trade Union is not cancelled or withdrawn under section 28G, such recognition shall continue to be operative after the expiry of two years, for a period of six months or until another Trade Union is recognised in its place, whichever is earlier.

Rights of
recognised
Trade
Union.

28E. (1) A Trade Union recognised under this Act shall, in such manner and subject to such conditions as may be prescribed, have the right —

(a) to raise issue and enter into collective agreement with the employer or employers on general questions concerning employment or non-employment or terms of employment and conditions of labour of any workman in respect of the industrial establishment or class of industry in a local area, as the case may be, for which it is recognised:

Provided that where, in any local area, in addition to a Trade Union recognised for a class of industry, there is also a recognised Trade Union in an individual industrial establishment belonging to that class of industry, the Trade Union recognised for a class of industry shall have the right to raise only general issues for that class of industry as a whole;

(b) to collect membership fees, subscriptions or any other dues payable by members of the Trade Union within the premises of the industrial establishment or class of industry in a local area, as the case may be, in such manner as may be prescribed;

(c) to put up or to cause to be put up a notice board on the premises of the industrial establishment or class of industry in a local area, as the case may be, in respect of which it is recognised and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or contrary to discipline or otherwise against the provisions of any law for the time being in force;

(d) for the purpose of prevention or settlement of any dispute regarding issues specified in clause (a)—

(i) to hold discussions with the workmen who are members of the Trade Union at a suitable place or places within the premises of the industrial establishment as mutually agreed upon;

(ii) to meet and discuss with the employer or any person appointed by him for the purpose;

Act 14 of
1947.

(iii) to inspect, by prior arrangement, any place in the industrial establishment or class of industry in a local area, as the case may be, where any member of the Trade Union is employed; and

(e) to nominate its representatives on non-statutory bipartite committees like Production Committee, Welfare Committee, House Allotment Committee that might be set up by any employer in an industrial establishment.

(2) The rights of a recognised Trade Union specified in subsection (1) shall be without prejudice to the rights that any unrecognised Trade Union enjoys under the Industrial Disputes Act, 1947.

28F. Every Trade Union recognised under section 28D shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 28, as may be prescribed.

Returns
by recog-
nised
Trade
Unions.

28G. (1) The recognition of any Trade Union shall stand cancelled as soon as the Registration of such Trade Union is cancelled by the Registrar under this Act unless there is any appeal against such order of cancellation.

Cancellation and
withdrawal of
recognition of a
Trade
Union.

(2) The Registrar may, in such manner as may be prescribed, direct the employer recognising a Trade Union to withdraw such recognition, if he is satisfied, after giving the parties concerned due opportunity of placing their case, and after holding such enquiry as may be prescribed, that the recognised Trade Union—

(a) has ceased to fulfil all or any of the conditions specified in section 28A; or

(b) obtained recognition on misrepresentation of facts; or

(c) adopted any of the unfair practices specified in section 28H.

(3) The recognition of a Trade Union may also be cancelled or withdrawn on the direction of the appellate Court on an appeal under section 11.

CHAPTER IIIB

UNFAIR PRACTICES BY TRADE UNIONS AND EMPLOYERS

28H. The following shall be deemed to be unfair practices on the part of a recognised Trade Union, namely:—

Unfair
practices
by recog-
nised
Trade
Unions.

(a) publication by a Trade Union of any statement of facts which is false and which the Trade Union either believes to be false, or does not believe to be true, in relation to any other Trade Union contesting the election in connection with the selection of a representative Trade Union, with the calculated object to prejudice the prospects of the other Trade Union's election;

(b) submission by a Trade Union of any return required by or under this Act containing false statements.

**Unfair
practices
by em-
ployers.**

28I. The following shall be deemed to be unfair practices on the part of an employer, namely:—

(a) to interfere with, restrain or coerce his workmen, in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid and protection;

(b) to interfere with the formation, or administration of any Trade Union or to contribute financial support to it;

(c) to discharge, or otherwise discriminate against any officer of a Trade Union because of his being such officer;

(d) to discharge or otherwise discriminate against any workman because he has made allegation or given evidence in an enquiry or proceeding relating to any matter referred to in sub-section (1) of section 28E.”.

**Amend-
ment of
Section 31.**

6. In section 31 of the principal Act,—

(a) in sub-section (1), for the word “statement”, the words “statement, return” shall be substituted;

(b) in sub-section (2), after the words “that section”, the words, figures and letter “or in or from any return referred to in section 28F” shall be inserted.

**Insertion
of new
sections
32A and
32B.**

7. After section 32 of the principal Act, the following sections shall be inserted, namely:—

**Penalty
for
failure or
refusal to
grant re-
cognition.**

“32A. If any employer fails or refuses to grant recognition to a Trade Union as required under section 28D, he shall, on conviction, be punishable with fine which may extend to one thousand rupees or with imprisonment which may extend to six months or with both.

**Penalty
for unfair
practices.**

32B. (1) Any employer who commits any unfair practice specified in section 28I shall be punishable, on conviction, with a fine which may extend to one thousand rupees or with imprisonment which may extend to six months.

(2) Where the offence committed under this section or under section 32A involves a company, or other body corporate, or an association of persons (whether incorporated or not) every director, manager, secretary, agent or other officer or persons concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.”.

STATEMENT OF OBJECTS AND REASONS

There is no provision for recognition of trade unions in the Trade Unions Act, 1926, or in any other Central Act. As such, the employers often recognise only those trade unions which suit their purpose, irrespective of the representative character of the said trade unions. This Bill seeks to provide for the conditions of recognition as well as to determine the scope and ambit of all such recognised trade unions. An identical Bill was passed by the West Bengal Legislative Assembly having jurisdiction over the State of West Bengal and this Bill, when passed, would have uniform law for recognition of trade unions throughout the country.

Hence this Bill.

DWIJENDRALAL SEN GUPTA.

B. N. BANERJEE,

Secretary.
